

EXCHANGING FNMA MORTGAGES FOR TREASURY BONDS

JULY 17, 1959.—Ordered to be printed

Mr. SPARKMAN, from the Committee on Banking and Currency, submitted the following

REPORT

TOGETHER WITH

MINORITY AND INDIVIDUAL VIEWS

[To accompany S. Res. 130]

The Committee on Banking and Currency, to whom was referred the resolution (S. Res. 130) concerning the exchange of mortgages held by the Federal National Mortgage Association for Government bonds, having considered the same, report favorably thereon without amendment and recommend that the resolution do pass.

BACKGROUND

The President's budget message to the 1st session of the 86th Congress, states on page M53:

For the fiscal year 1960, the Association [Federal National Mortgage Association] will endeavor to cover its expenditure for mortgages purchased by receipts from mortgage sales and other sources. To make this possible without diverting the flow of new funds from the mortgage market, an estimated \$335 million in Government-owned mortgages will be offered to investors in exchange for certain Government bonds which will then be retired.

Pursuant to title III of the National Housing Act, as amended, (P.L. 479, 73d Cong.) the Federal National Mortgage Association has three functions: (1) to provide supplementary assistance to the secondary market for home mortgages by providing a degree of liquidity for mortgage investments; (2) to provide special assistance for the financing of selected types of home mortgages originated under special housing programs designed to provide housing of acceptable

standards at full economic cost for segments of the national population which are unable to obtain adequate housing under established home financing programs; and (3) to manage and liquidate the existing mortgage portfolio of the FNMA *in an orderly manner, with a minimum of adverse effect upon the home mortgage market, and minimum loss to the Federal Government.*

The plan proposed by the President in his budget message relates directly to the management and liquidation function of the Association. Under the proposed plan, the Association would exchange at least \$335 million in Government-insured or guaranteed mortgages presently held in its management and liquidation portfolio for an amount of 2½ percent Treasury bonds, investment series B-1975-80.

The stated purpose for this plan is that it would afford the FNMA an opportunity to effect liquidation of some of the 4-percent mortgages now held in the portfolio, thus enabling FNMA activities during fiscal year 1960 to have no impact upon the President's budget.

Under existing law, the proposed exchange can be made so long as it liquidates the portfolio "in an orderly manner, with a minimum of adverse effect upon the home mortgage market, and minimum loss to the Federal Government."

MANAGEMENT AND LIQUIDATION PORTFOLIO

The mortgages contained in the FNMA management and liquidation portfolio were acquired by the Association in its operations prior to November 1, 1954. Overall purchases prior to this date amounted to \$5 billion. As a consequence of sales of approximately \$1.6 billion, and repayment and other credits of about \$1.3 billion, this portfolio at the end of April 1959, contained approximately \$2.1 billion of Government-insured or guaranteed mortgages. This \$2.1 billion mortgage portfolio is made up of FHA and VA mortgages ranging in interest rate from 4 to 4½ percent. The proposed exchange would involve only the 4-percent mortgage loans guaranteed by the Veterans' Administration, aggregating some \$1 billion, or approximately one-half of the management and liquidation portfolio. The mortgages to be exchanged have a remaining average principal amount of \$5,600 and an average stated maturity of 16 years. It is contemplated that the remaining maturity will probably be reduced to less than 10 years because of advanced amortization or prepayment prior to maturity. On a yield basis, these mortgages have a current value of between 86 and 88 percent of par.

The \$1 billion of 4-percent VA-guaranteed mortgages for which the exchanged is proposed is secured by properties located in the following States:

[In thousands]

State	Amount	State	Amount
Alabama.....	\$37, 897	Nebraska.....	\$2, 107
Arizona.....	3, 707	New Jersey.....	4, 842
Arkansas.....	10, 519	New Mexico.....	11, 846
California.....	246, 412	New York.....	2, 642
Colorado.....	7, 464	North Carolina.....	4, 978
Connecticut.....	45	Ohio.....	12, 299
Delaware.....	1, 095	Oklahoma.....	81, 538
District of Columbia.....	2, 801	Oregon.....	1, 274
Florida.....	82, 086	Pennsylvania.....	5, 297
Georgia.....	43, 082	Puerto Rico.....	30
Idaho.....	690	South Carolina.....	16, 248
Illinois.....	4, 840	South Dakota.....	64
Indiana.....	4, 989	Tennessee.....	28, 830
Iowa.....	541	Texas.....	150, 631
Kansas.....	19, 528	Utah.....	2, 298
Kentucky.....	3, 310	Virginia.....	8, 649
Louisiana.....	24, 209	Washington.....	41, 187
Maryland.....	6, 955	West Virginia.....	2, 724
Michigan.....	148, 836	Wisconsin.....	376
Minnesota.....	3, 787	Wyoming.....	7
Mississippi.....	3, 862		
Missouri.....	15, 069	Total.....	1, 049, 607
Montana.....	17		

TREASURY BONDS

The proposed exchange would involve 2½-percent, investment series B-1975-80 nonmarketable Treasury bonds. The bonds mature on April 1, 1980, and are callable at par by the Treasury on and after April 1, 1975. These bonds are exchangeable for 1½-percent, 5-year Treasury marketable notes which have a current market value for the current issues of between 87 and 88 percent of par.

On April 30, 1959, these 2½-percent investment series B-1975-80 bonds were held by the following classes of investors:

[In millions of dollars]

Class of investor	Original subscriptions			Holdings, Apr. 30, 1959 ¹
	1951	1952	Total	
Pension and retirement funds.....	1, 847	453	2, 300	-----
State and local governments, other than pension and retirement funds.....	550	164	714	-----
Savings and loan associations, building and loan associations, and cooperative banks.....	124	41	165	-----
Individuals.....	183	10	193	-----
All other private investors.....	525	66	591	-----
Subtotal.....	3, 229	734	3, 963	2, 383
Insurance companies.....	3, 338	336	3, 674	1, 810
Mutual savings banks.....	1, 252	127	1, 379	796
Commercial and industrial banks.....	172	37	209	123
Federal Reserve System.....	2, 714	-----	2, 714	-----
Government investment accounts.....	2, 870	523	3, 393	2, 704
Total.....	13, 574	1, 757	15, 331	² 7, 816

¹ Survey of ownership.

² Outstanding Apr. 30, 1959, \$7,816 million.

This series of bonds was originally issued on April 1, 1951, at par in exchange for certain 2½-percent Treasury bonds. An additional amount was issued in June 1952 for cash and in exchange for certain 2½-percent Treasury bonds.

COMMITTEE POSITION

As previously stated the Federal National Mortgage Association has authority under existing law to dispose of the management and liquidation portfolio without further action or sanction by the Congress. However, upon learning of this proposal, studying it, and holding hearings thereon, the committee cannot agree that this exchange would be compatible with the FNMA Charter Act or in the interest of the public for reasons set forth below:

Loss of potential income to Federal Government

Mortgages which would be relinquished by the FNMA bear interest at a rate of 4 percent per annum. The interest rate paid by the Treasury on the bonds proposed to be exchanged is 2¼ percent per annum. The President of the Federal National Mortgage Association and the Under Secretary of the Treasury testified before the committee that:

If the net return from the exchangeable 4-percent mortgages is related directly to the interest return on the 2¼-percent Treasury bonds, the difference in rates amounts to about 0.63 percent at this time. With respect to each \$1 million of mortgages exchanged, it represents a possible reduction in future income of less than \$40,000 over the remaining term of such mortgages (assuming the exchange to be on an even basis).

The proposed plan contemplates the exchange of some \$335 million of mortgages. Based on the figures presented to the committee by the two executive branch officials, the loss of future income to the Federal Government resulting from the exchange of this portion of the portfolio would amount to \$13.4 million. However, the administration has indicated the possibility of exchanging the entire portfolio of 4-percent VA mortgages. Under such circumstances the possible loss of future income to the Federal Government would be approximately \$40 million.

Potential loss of tax revenue

If the 2¼-percent Treasury bonds are carried on the books of holders at the value of the bonds on the date of exchange, the bondholders could claim a long-term capital loss or an ordinary loss (depending upon the type of institution involved) for purposes of reporting their taxable earnings.

The Under Secretary of the Treasury stated to the committee that:

* * * The magnitude of the possible tax losses and future gains are set by the size of the proposed exchange and the present market price of the securities involved. If \$335 million of mortgages are exchanged for equal amounts of Treasury 2¼-percent bonds, the maximum loss is about 10 percent, or \$33.5 million, with an approximate tax loss of \$8.4 million, assuming a full 25-percent tax effect. Repay-

ment of the mortgages at par will result in most cases in equal gains in later years. This also involves tax revenues of approximately \$8.4 million on the same basis of 25 percent.

This assumes that all purchasers will be fully subject to Federal income taxes. However, many investors who are likely to be interested in acquiring the mortgages, such as mutual savings banks and savings and loan associations, often have little or no tax liability because of a statutory deduction permitted for additions to reserves. Pension funds generally are exempt from tax * * *.

It must be pointed out also that this revenue loss is an immediate loss and would directly affect the budget for fiscal year 1960 by an amount proportionate to the exchange made during the fiscal year. If the exchange should be in a volume of \$1 billion, which is a possibility, the revenue loss during fiscal year 1960 could be over \$25 million.

Effect upon the mortgage market

It is common practice for investors to establish limits upon their holdings of VA and FHA mortgages. If these investors are presently the holders of the 2¾-percent Treasury bonds, it is possible that the exchange may satisfy their established limits temporarily. Thus the exchange would reduce their activity in the mortgage market during the period following the exchange. If the exchange involves a major portion of the portfolio and if it is absorbed by these investors, a significant withdrawal from the mortgage market could occur. The committee is impressed by letters received by Members which state that the mere announcement of the proposed exchange has already had an adverse effect upon the market. For example, the National Association of Home Builders states in a letter dated June 4, 1959:

* * * Now a factor further complicating the financial situation is under consideration, the exchange of mortgages from FNMA's liquidation portfolio for Government bonds. We understand your committee is now examining this proposal. Apart from the substantive advantages or disadvantages of such a proposal, this action at this time would, in our opinion, be most unwise. The very fact that such a move is under consideration has already had unsettling effects on the home financing situation as a number of lenders have, by report, held back from purchases of mortgages on new homes in the expectations of exchanging their bonds for older mortgages * * *.

The President of Housing Securities, Inc., states in a letter dated June 2, 1959:

* * * This proposed opportunity for the savings banks to improve their yield and regain liquidity has excited tremendous interest, particularly among the New York State savings banks, where a favorable decision on the exchange has been issued from the banking authorities. It is having a very serious effect on the mortgage market, which has been depressed for some time. As you probably know, there have been heavy withdrawals and severe net losses in deposits by

many of the banks during the last several months. This had tended to curtail their investing activities.

Now the opportunity to swap their frozen Treasuries for the higher yield mortgages has caused their complete withdrawal from investments until they see how many bonds they will be permitted to swap. This has caused a demoralized situation in the sale of loans, and it may have a lasting effect. Many of the savings banks have reached their maximum ratio of mortgages to total investments, and due to the desirability of the bond swap, they may exceed this ratio. The result will be a cessation of mortgage investment for a length of time necessary to reestablish their proper relationship between mortgages and other investments * * *.

CONCLUSION

The committee believes that this plan would reduce Federal income from the FNMA mortgages by as much as \$40 million; it would cause an internal revenue loss during fiscal year 1960 of as much as \$24 million; it would have an adverse effect upon the home mortgage market; and it would retire, needlessly, a portion of the national debt now in low-interest bonds. The committee believes that this exchange would be contrary to the intent of those provisions of law which contemplate the liquidation of the FNMA portfolio *in an orderly manner, with a minimum of adverse effect upon the home mortgage market, and a minimum loss to the Federal Government.*

For these reasons the committee does not condone or concur in the wisdom of the proposed exchange of FNMA mortgages for Treasury bonds. The committee recommends that the Senate express its opposition to the proposed exchange by approving this resolution.

MINORITY VIEWS OF MESSRS. BENNETT AND BUSH

The majority proposes that the Senate consume valuable time by considering a legally ineffectual resolution declaring it to be the "sense of the Senate" that a policy adopted by the President of the United States—based upon undisputed authority provided by the Congress and carrying out the specific intent of Congress—is not in the national interest.

Why does the majority recommend that the Senate indulge in unwarranted criticism of the President and public servants in his administration who are seeking to carry out the expressed will of Congress when, if there is an ill which requires a remedy, it can legislate?

The majority is trying to read into the administration's proposed exchange of low-interest-rate mortgages held in the management and liquidating account of the Federal National Mortgage Association for U.S. Treasury nonmarketable 2¾ percent bonds (investment series B) some sinister and improvident plan to raid the Treasury for the benefit of some special interests. Nothing could be further from the truth. When one takes the trouble to examine the proposal carefully, one finds it is open and aboveboard and clearly in the public interest.

Let us first review the reasons why the President's policy, adopted after mature deliberation among his principal advisers in this field, is in the national interest. In 1954 the Congress (and particularly this committee) recognized, in the Federal National Mortgage Association Charter Act, the sound principle that the mortgage business is primarily one for private enterprise, and that it should become Government business, and remain Government business, only to the extent that private enterprise is not able to provide home financing necessary in the national interest. In order to assure that this sound principle was carried out, Public Law 560, 83d Congress, set up the "management and liquidating functions" to hold the assets then in FNMA and expressed the clear intention that those assets be liquidated. The language of the Statute, section 301(c), is as follows:

(c) Manage and liquidate the existing mortgage portfolio of the Federal National Mortgage Association in an orderly manner, with a minimum of adverse effect upon the home mortgage market and minimum loss to the Federal Government.

Pursuant to that directive and prior authorizations, from February 1938 through May 1959, \$1,633,850,000 face value of mortgages have been sold for cash. All of these sales involved a "loss" of future income represented by the difference between the future cost of the funds and the net future return on the mortgages sold, and the aggregate "loss" computed in that way has run into very large figures. To the best of our knowledge, no voice in the Congress was raised against FNMA for thus carrying out the expressed intent of Congress in the past 21 years.

The same Public Law 560 expressed the clear intent of the Congress that FNMA's management and liquidating functions should be financed in the private market. Section 306(b) reads as follows:

(b) For the purposes of this section and to assure that, to the maximum extent, and as rapidly as possible, private financing will be substituted for Treasury borrowings otherwise required to carry mortgages held under the aforesaid separate accountability, the Association is authorized to issue, upon the approval of the Secretary of the Treasury. * * *

Pursuant to that expression of intent, FNMA on three occasions has sold its own notes, aggregating \$2,169,779,000 in the private investment market, and \$797 million of these notes are at present outstanding. On each occasion such FNMA notes were sold, the rate of interest paid was from one-half of 1 percent to seven-eighths of 1 percent higher than the Treasury would have paid had it sold its direct obligations of similar term in the market at the time.

The only apparent advantage to the Government, if it is an advantage, of pursuing this policy of private sales, was that it kept this amount of indebtedness out the statutory debt limit.

To return to the instant case, the President now proposes to carry out the clear mandate of Congress by continuing a sound liquidation program which is decidedly in the public interest.

In his budget message of 1960, the President pointed out that FNMA would endeavor to cover its expenditures for mortgage purchases by receipts from mortgage sales, thus making it unnecessary to add \$335 million to the public debt. Obviously, to provide an additional \$335 million from the Treasury would tend to unbalance the budget and would have a seriously adverse effect upon the national interest. Obviously, to enable FNMA to carry out its program, and in the process help to balance the budget, would be in the national interest.

The effects of the President's proposal are as follows:

(1) It permits FNMA to liquidate in the current fiscal year \$335 million face value of low-interest-rate mortgages (4 percent) which net FNMA only 3% percent (one-half of 1 percent paid for outside services and about one-eighth of 1 percent direct costs to FNMA).

(2) FNMA and the Treasury have testified that this proposed exchange would result in no loss of principal. There would be a theoretical "loss" of future interest income which might run up to an aggregate of \$40,000 per million dollars of face value of mortgages sold. This alleged "loss" would be spread over a period of 15 years, just as the "loss" in future interest income on the \$1,633,850,000 face value of mortgages previously sold for cash involved a "loss" of income over a period of from 15 to 25 years. FNMA has indicated that the "loss" may be well below the figure of \$40,000 per million dollars as it is its intention to call for competitive offers from all the holders of the 2¾-percent Treasury bonds. This can be readily done as the bonds are in registered form.

(3) The exchange for Treasury nonmarketable bonds takes no significant amounts of money out of the stream of funds available for investment in the mortgage market.

(4) The Treasury has stated that the loss of tax revenues that results is "insignificant," first because a considerable proportion of the

exchanges will be made by institutions (savings banks, savings and loan associations, pension funds, etc.) which do not pay income taxes and second, any capital losses taken by taxpayers after the exchange of their bonds for mortgages will largely be offset by taxable capital gains realized by taxpayers when the principal on the mortgages is collected.

(5) The proposed exchange has the result of obviating the necessity of FNMA's calling on the Treasury for an additional \$335 million in fiscal 1960 to finance its special assistance program. If by so doing it were to throw the budget out of balance, to that extent it would result in an increase in the direct Federal debt subject to debt limitation.

(6) FNMA experiences no loss because the Treasury accepts its own direct obligations at par in settlement of notes due from FNMA to the Treasury at par.

(7) Bonds thus taken at par by the Treasury would be canceled, which is no hardship to the Treasury, as ultimately it would have to pay them off at 100 cents on the dollar.

(8) The nonmarketable 2¾-percent bonds (investment series B) are being converted by election of the holders into 5-year 1½-percent notes at the rate of about \$1 billion per year. Thus, the Treasury will be confronted in the years immediately ahead with this additional amount of outstanding short-term obligations which fall in the maturity area already congested. Such very short-term obligations are almost the equivalent of money and, therefore, have a certain inflationary effect. Thus, to retire a substantial amount of these convertible bonds will tend to reduce inflationary pressures.

Despite all of this, Senate Resolution 130 complains (although it does not attempt to do anything about it) that the program is not in the public interest and should not be carried out because of (1) loss of income from mortgage loans, (2) loss of tax revenues, and (3) adverse effect upon the home mortgage market. We have shown above how, in a positive way, the program carries out the expressed intent of the Congress and has other desirable effects in the national interest. We will now show why the complaints in Senate Resolution 130 are ill-founded.

First, the concern with loss of future income from the mortgage loans: The majority's fallacious argument about "loss" of future income should be considered in the light of the following facts. The \$335 million in mortgages to be liquidated will be replaced by \$335 million in "special-assistance" mortgages. Most of these special-assistance mortgages will bear interest at rates ranging from 4½ to 5½ percent in comparison with the rate of 4 percent on the mortgages to be replaced. Thus, one category of income-producing assets will be replaced by other assets actually producing more income.

Moreover, we find it hard to treat the majority's complaint seriously because the loss of future interest on mortgages sold is an inevitable and absolute corollary of the expression of the Congress, recommended by this committee, that the Government dispose of mortgages. Note that this is not a loss of principal, but is some novel concept of a "loss" of future income. Every dollar of the \$1,633 million of mortgages already sold has produced such a loss (if indeed it is proper to call it a loss). The simple fact is, as the Congress recognized and declared in 1954, that under FNMA's management

and liquidating functions the Government is not in the mortgage business to make money. If it were it could doubtless make more than the five-eighth of 1 percent which is the net return to the Government on these mortgages above the interest it pays on the bonds.

The Government could, with its financial resources and its immunity from taxes, make money in almost any business. On its theory, therefore, we assume that the majority favors the Government going into the laundry business, the bowling alley business, the beauty parlor business and every other business in which it could show a book profit. The ultimate conclusion to which we are forced by this theory is too obvious to require elucidation. It is enough to say that it is not one of the principles on which our Nation is founded that the Government should enter, or remain in, private business simply to make money.

The next complaint of the majority is that the proposed program results in a loss of tax revenue. The Treasury has stated that the maximum revenue loss in the year of exchange would be about \$8.4 million but that any such loss in the year of exchange would in general be offset by gains in future years. Thus there would be no ultimate loss of tax revenues.

Finally, the majority complains that the program will have an adverse effect upon the home mortgage market. Actually, however, one of the very commendable features of the program is that it carries out the direction of the Congress to dispose of mortgages without significant withdrawal of funds from the mortgage market. Only in case an institution making the exchange has reached a legal or self-imposed maximum of mortgages held will it have any effect at all on the mortgage market. In fact, the availability of this exchange might induce some institutions that would not otherwise acquire mortgages to enter the mortgage market. If, as a consequence of the exchange, these series B Treasury bond investors are persuaded to expand their mortgage portfolios by acquiring and holding nonlocal mortgages, the benefits will be of special importance to capital shortage areas.

To sum up, the main advantages of the proposed exchange are:

- (1) FNMA gets rid of some of its least desirable low-interest-rate assets pursuant to the congressional direction to liquidate.
- (2) It helps to balance the fiscal 1960 budget.
- (3) FNMA's special assistance requirements in fiscal year 1960 are financed without adding an additional \$335 million to the public debt.

These seem to us to be worthy objectives, clearly in the public interest.

If the Congress comes to the conclusion that it wants to change its policy in respect to FNMA—and we do not think it should—instead of offering criticism of the administration for the proposed exchanges, it should change the existing statute in a forthright manner and say directly that:

- (1) FNMA should not attempt to liquidate any portion of the management and liquidating account.

- (2) FNMA should be directed to pay off at maturity on August 23, 1960, the \$797 million of its notes rather than refinance them in the market at a higher interest rate than the Treasury would pay on direct obligations.

(3) To permit FNMA thus to do, the statutory debt limit should be further increased by \$800 million to make room for the required Treasury financing.

(4) The Congress has no interest in the administration's finding legitimate means to balance the budget by liquidating unneeded assets.

(5) The test of FNMA's operations in the management and liquidating account should be whether it should acquire mortgages at any time it can acquire them at a higher net rate than the cost of borrowing by the Treasury rather than getting the Government out of the mortgage business even at moderate losses when no useful purpose is served by continuing to hold the mortgages.

We doubt that the Senators sponsoring Senate Resolution 130 seriously advocate any of the foregoing. If they do, let them draft a bill to implement their views and to place these issues squarely before the Congress. The administration should not be subjected to unjustified criticism when seeking to carry out the express directions and intent of the Congress.

For all these reasons, we strongly urge that the Senate reject Senate Resolution 130.

WALLACE F. BENNETT.
PRESCOTT BUSH.

INDIVIDUAL VIEWS OF MR. CAPEHART

My vote to report Senate Resolution 130 to the Senate in no way reflects my opinion with respect to the intent and purpose of the resolution or to the advisability of such Senate action.

I made a personal request of the committee that more time be given me to discuss the mortgage-for-bond transaction with FNMA and Treasury officials, and I faithfully promised the committee that the administration would not proceed with the program until final action had been taken on the resolution.

When my request was denied by a majority of the committee members, I decided to join in voting the resolution to the floor of the Senate for the fullest possible disclosure of the facts.

In view of the fact the proposed transaction would not have taken place as long as Senate Resolution 130 remained in committee, the sponsors must have had some motive, other than the intent of the resolution, for speeding the resolution to the floor of the Senate.

In fact, if the sponsors of the resolution are honestly convinced the transaction should not take place, they should have introduced an amendment to the National Housing Act repealing the provisions of that act giving FNMA administrators the right to liquidate the mortgage portfolio.

The authority and responsibility is given FNMA officials under title III, section 301, of the National Housing Act, as amended, Public Law 479, of the 73d Congress.

The Association is authorized to—

(c) manage and liquidate the existing mortgage portfolio of the Federal National Mortgage Association in an orderly manner, with a minimum of adverse effect upon the home mortgage market and minimum loss to the Federal Government.

Senate Resolution 130 will not change the authority nor the responsibility. Senate Resolution 130 would only place the Senate in the position of dictating the policy without making the Senate responsible for the results of that policy.

In the hearings, which I have read carefully, the exchange program is clearly explained by two capable witnesses, Mr. J. Stanley Baughman, President of FNMA, and Mr. Julian B. Baird, Under Secretary of the Treasury for Monetary Affairs.

Every Senator has the right to question judgment in matters of this kind, even the judgment of such qualified men as Mr. Baughman and Mr. Baird. I defend that senatorial and individual right above all else.

Further study of the program may prompt me to question the judgment of the transaction at this time.

I find in the record of the hearings intimations in the questioning of the witnesses that some form of connivance may be afoot whereby great profits may go to some with great cost to the taxpayers.

It was notable that when astronomical losses were compiled by a committee member on page 40 of the hearings, correcting testimony by Mr. Baird was shunted aside without proper discussion.

A single fact was properly established by the hearings, namely, that honest men can differ in judgment in transactions of this kind.

Nothing more was established regardless of what may have motivated the sponsors of the resolution to deny my personal request for additional time.

HOMER E. CAPEHART.

INDIVIDUAL VIEWS OF SENATOR JACOB K. JAVITS

I regret that in considering the proposed transaction involving the exchange of \$335 million in Federal National Mortgage Association held mortgages for outstanding nonmarketable 2¼-percent Treasury bonds, the proponents of Senate Resolution 130, who oppose the transaction, have not given substantial consideration to the possibility of amending the statute under which this transaction is being carried out. As the implication is implicit that the legislative branch, by this resolution, is engaging in management functions best performed by the executive department, I believe that the committee's action could well have been postponed until the possibility of legislative clarification of the enabling statute was investigated.

In proposing this exchange, the Treasury is acting under the terms of an act of Congress (sec. 301(c), Public Law 560, 83d Cong.) which, in the interpretation of the Treasury, authorizes this transaction. However, in its report the majority of the committee is apparently of the opinion that the basic intent of the act does not authorize the proposed exchange even if its exact language may do so, in the light of the criteria requiring an "orderly" liquidation of the mortgage portfolio with a "minimum of adverse effect upon the home mortgage market and minimum loss to the Federal Government."

Previous liquidations of FNMA mortgages under the statute have, according to the Treasury, been cash transactions, not involving the cancellation of existing long-term low-rate bonds. Possible legislation could, if that was the wish of Congress, require liquidation through open sales for cash; in the case of the present proposal, this might preclude its consummation because of the resulting adverse effect on the general home mortgage market. Another possibility is inserting a clear directive in the statute authorizing liquidation that it is to be carried out with a view to stabilizing the mortgage market through countercyclical activity. Thus there would be an increase in FNMA mortgage holding during periods when there is a shortage of mortgage funds generally, and a decrease during periods of excess mortgage funds. Such a period occurred during 1954, when the sale of \$575,-067,000 in mortgages resulted in a net income to the Government from housing activities during that year of over one-half billion dollars. The clear expression of such a policy, should that be the congressional wish, might well preclude the liquidation of one mortgage portfolio while another is being enlarged, as is the present situation, except under the most unusual circumstances.

In the absence of clear congressional indications of intent in the basic statute, I believe that basic management practice requires that the Treasury be permitted to operate in its judgment under existing authority which, in Treasury interpretation of its terms, permits the activity being proposed. When the Congress establishes standards such as "a minimum of adverse effect" and "minimum loss" without further criteria, as in the case of section 301(c), it should not interfere with action in implementing these standards taken by the agency as

a result of honest and sincere judgments. Perhaps this would not be a transaction which Congress would authorize initially. On the other hand, it has given the agencies concerned this authority and should not superimpose its subsequent judgment on an issue where it has delegated such a wide range of power. This is particularly true in a case where it can take away that power by legislative action, if it so chooses.

In view of these considerations, I believe that, irrespective of specific opinions on the proposed transaction, at which this resolution is directed, it would be far preferable to consider specific legislative amendments to deal with any inadequacies found to exist in present law.

JACOB K. JAVITS.

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